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Trafficking



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FBI Law Enforcement Bulletin

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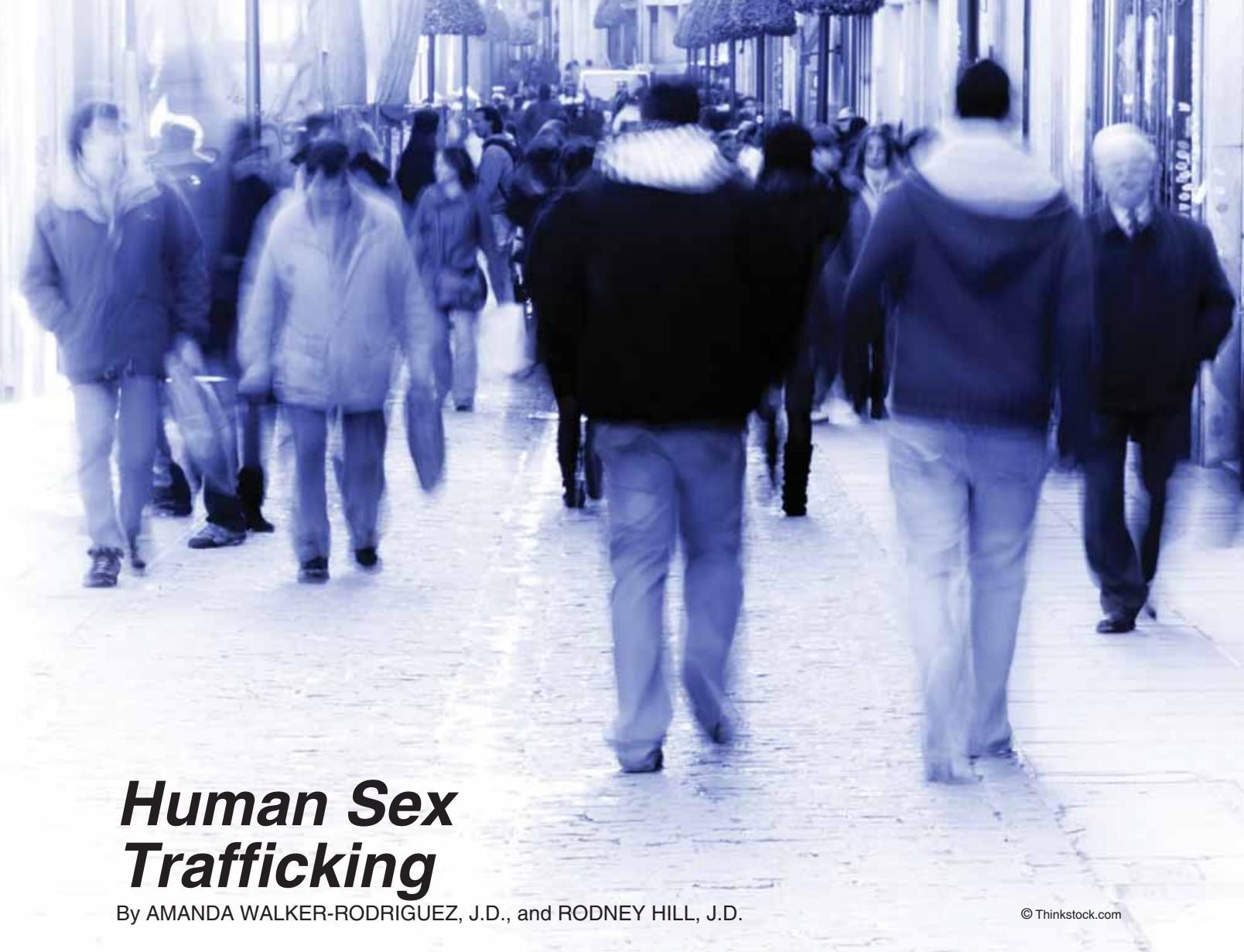
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Human Sex Trafficking

By AMANDA WALKER-RODRIGUEZ, J.D., and RODNEY HILL, J.D.

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Human sex trafficking is the most common form of modern-day slavery. Estimates place the number of its domestic and international victims in the millions, mostly females and children enslaved in the commercial sex industry for little or no money.¹ The terms *human trafficking* and *sex slavery* usually conjure up images of young girls beaten and abused in faraway places, like Eastern

Europe, Asia, or Africa. Actually, human sex trafficking and sex slavery happen locally in cities and towns, both large and small, throughout the United States, right in citizens' backyards.

Appreciating the magnitude of the problem requires first understanding what the issue is and what it is not. Additionally, people must be able to identify the victim in common trafficking situations.

HUMAN SEX TRAFFICKING

Many people probably remember popular movies and television shows depicting pimps as dressing flashy and driving large fancy cars. More important, the women—adults—consensually and voluntarily engaged in the business of prostitution without complaint. This characterization is extremely inaccurate, nothing more than fiction. In reality,

the pimp *traffics* young women (and sometimes men) completely against their will by force or threat of force; this is human sex trafficking.

The Scope

Not only is human sex trafficking slavery but it is big business. It is the fastest-growing business of organized crime and the third-largest criminal enterprise in the world.² The majority of sex trafficking is international, with victims taken from such places as South and Southeast Asia, the former Soviet Union, Central and South America, and other less developed areas and moved to more developed ones, including Asia, the Middle East, Western Europe, and North America.³



Ms. Walker-Rodriquez is an assistant state's attorney in Baltimore County and a current member of the Maryland Human Trafficking Task Force.

Unfortunately, however, sex trafficking also occurs domestically.⁴ The United States not only faces an influx of international victims but also has its own homegrown problem of interstate sex trafficking of minors.⁵

Although comprehensive research to document the number of children engaged in prostitution in the United States is lacking, an estimated 293,000 American youths currently are at risk of becoming victims of commercial sexual exploitation.⁶ The majority of these victims are runaway or thrown-away youths who live on the streets and become victims of prostitution.⁷ These children generally come from homes where they have been abused or

from families who have abandoned them. Often, they become involved in prostitution to support themselves financially or to get the things they feel they need or want (like drugs).

Other young people are recruited into prostitution through forced abduction, pressure from parents, or through deceptive agreements between parents and traffickers. Once these children become involved in prostitution, they often are forced to travel far from their homes and, as a result, are isolated from their friends and family. Few children in this situation can develop new relationships with peers or adults other than the person victimizing them. The lifestyle of such youths revolves around violence, forced drug use, and constant threats.⁸

Among children and teens living on the streets in the United States, involvement in commercial sex activity is a problem of epidemic proportion. Many girls living on the street engage in formal prostitution, and some become entangled in nationwide organized crime networks where they are trafficked nationally. Criminal networks transport these children around the United States by a variety of means—cars, buses, vans, trucks, or planes—and often provide them counterfeit identification to use in the event of arrest. The average age at which girls first



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become victims of prostitution is 12 to 14. It is not only the girls on the streets who are affected; boys and transgender youth enter into prostitution between the ages of 11 and 13 on average.⁹

The Operation

Today, the business of human sex trafficking is much more organized and violent. These women and young girls are sold to traffickers, locked up in rooms or brothels for weeks or months, drugged, terrorized, and raped repeatedly.¹⁰ These continual abuses make it easier for the traffickers to control their victims. The captives are so afraid and intimidated that they rarely speak out against their traffickers, even when faced with an opportunity to escape.

Generally, the traffickers are very organized. Many have a hierarchy system similar to that of other criminal organizations. Traffickers who have more than one victim often have a “bottom,” who sits atop the hierarchy of prostitutes. The bottom, a victim herself, has been with the trafficker the longest and has earned his trust. Bottoms collect the money from the other girls, discipline them, seduce unwitting youths into trafficking, and handle the day-to-day business for the trafficker.

Traffickers represent every social, ethnic, and racial group. Various organizational types exist in trafficking. Some perpetrators are involved with local street and motorcycle gangs, others are members of larger nationwide gangs and criminal organizations, and some have no affiliation with any one group or organization. Traffickers are not only men—women run many established rings.

The United States not only faces an influx of international victims but also has its own homegrown problem of interstate sex trafficking of minors.

Traffickers use force, drugs, emotional tactics, and financial methods to control their victims. They have an especially easy time establishing a strong bond with young girls. These perpetrators may promise marriage and a lifestyle the youths often did not have in their previous familial relationships. They claim they “love” and “need”

the victim and that any sex acts are for their future together. In cases where the children have few or no positive male role models in their lives, the traffickers take advantage of this fact and, in many cases, demand that the victims refer to them as “daddy,” making it tougher for the youths to break the hold the perpetrator has on them.

Sometimes, the traffickers use violence, such as gang rape and other forms of abuse, to force the youths to work for them and remain under their control. One victim, a runaway from Baltimore County, Maryland, was gang raped by a group of men associated with the trafficker, who subsequently staged a “rescue.” He then demanded that she repay him by working for him as one of his prostitutes. In many cases, however, the victims simply are beaten until they submit to the trafficker’s demands.

In some situations, the youths have become addicted to drugs. The traffickers simply can use their ability to supply them with drugs as a means of control.

Traffickers often take their victims’ identity forms, including birth certificates, passports, and drivers’ licenses. In these cases, even if youths do leave they would have no ability to support themselves and often will return to the trafficker.

These abusive methods of control impact the victims both physically and mentally. Similar to cases involving Stockholm Syndrome, these victims, who have been abused over an extended period of time, begin to feel an attachment to the perpetrator.¹¹ This paradoxical psychological phenomenon makes it difficult for law enforcement to breach the bond of control, albeit abusive, the trafficker holds over the victim.

NATIONAL PROBLEM WITH LOCAL TIES

The Federal Level

In 2000, Congress passed the Trafficking Victims Protection Act (TVPA), which created the first comprehensive federal law to address trafficking, with a significant focus on the international dimension of the problem. The law provides a three-pronged approach: *prevention* through public awareness programs overseas and a State Department-led monitoring and sanctions program; *protection* through a new T Visa and services for foreign national victims; and *prosecution* through new federal crimes and severe penalties.¹²

As a result of the passing of the TVPA, the Office to Monitor and Combat Trafficking in Persons was established in October 2001. This enabling legislation led to the creation of a bureau

within the State Department to specifically address human trafficking and exploitation on all levels and to take legal action against perpetrators.¹³ Additionally, this act was designed to enforce all laws within the 13th Amendment to the U.S. Constitution that apply.¹⁴

U.S. Immigration and Customs Enforcement (ICE) is one of the lead federal agencies charged with enforcing the TVPA. Human trafficking



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represents significant risks to homeland security. Would-be terrorists and criminals often can access the same routes and use the same methods as human traffickers. ICE's Human Smuggling and Trafficking Unit works to identify criminals and organizations involved in these illicit activities.

The FBI also enforces the TVPA. In June 2003, the FBI, in conjunction with the Department of Justice Child

Exploitation and Obscenity Section and the National Center for Missing and Exploited Children, launched the Innocence Lost National Initiative. The agencies' combined efforts address the growing problem of domestic sex trafficking of children in the United States. To date, these groups have worked successfully to rescue nearly 900 children. Investigations successfully have led to the conviction of more than 500 pimps, madams, and their associates who exploit children through prostitution. These convictions have resulted in lengthy sentences, including multiple 25-year-to-life sentences and the seizure of real property, vehicles, and monetary assets.¹⁵

Both ICE and the FBI, along with other local, state, and federal law enforcement agencies and national victim-based advocacy groups in joint task forces, have combined resources and expertise on the issue. Today, the FBI participates in approximately 30 law enforcement task forces and about 42 Bureau of Justice Assistance (BJA)-sponsored task forces around the nation.¹⁶

In July 2004, the Human Smuggling Trafficking Center (HSTC) was created. The HSTC serves as a fusion center for information on human smuggling and trafficking, bringing together analysts, officers, and investigators from such agencies as

the CIA, FBI, ICE, Department of State, and Department of Homeland Security.

The Local Level

With DOJ funding assistance, many jurisdictions have created human trafficking task forces to combat the problem. BJA's 42 such task forces can be demonstrated by several examples.¹⁷

- In 2004, the FBI's Washington field office and the D.C. Metropolitan Police Department joined with a variety of nongovernment organizations and service providers to combat the growing problem of human trafficking within Washington, D.C.
- In January 2005, the Massachusetts Human Trafficking Task Force was formed, with the Boston Police Department serving as the lead law enforcement entity. It uses a two-pronged approach, addressing investigations focusing on international victims and those focusing on the commercial sexual exploitation of children.
- The New Jersey Human Trafficking Task Force attacks the problem by training law enforcement in the methods of identifying victims and signs of trafficking, coordinating statewide efforts in the identification

and provision of services to victims of human trafficking, and increasing the successful interdiction and prosecution of trafficking of human persons.

- Since 2006, the Louisiana Human Trafficking Task Force, which has law enforcement, training, and victim services components, has focused its law

needs in the hurricane-damaged areas of the state.

- In 2007, the Maryland Human Trafficking Task Force was formed. It aims to create a heightened law enforcement and victim service presence in the community. Its law enforcement efforts include establishing roving operations to identify victims and traffickers, deputizing local law enforcement to assist in federal human trafficking investigations, and providing training for law enforcement officers.

Local and state criminal justice officials must understand that these cases are not isolated incidents that occur infrequently.

enforcement and victim rescue efforts on the Interstate 10 corridor from the Texas border on the west to the Mississippi border on the east. This corridor, the basic northern border of the hurricane-ravaged areas of Louisiana, long has served as a major avenue of illegal immigration efforts. The I-10 corridor also is the main avenue for individuals participating in human trafficking to supply the labor

Anytown, USA

In December 2008, Corey Davis, the ringleader of a sex-trafficking ring that spanned at least three states, was sentenced in federal court in Bridgeport, Connecticut, on federal civil rights charges for organizing and leading the sex-trafficking operation that exploited as many as 20 females, including minors. Davis received a sentence of 293 months in prison followed by a lifetime term of supervised release. He pleaded guilty to multiple sex-trafficking charges, including recruiting a girl under the age of 18 to engage in prostitution. Davis admitted that he recruited a minor to engage in prostitution; that he was the organizer of a sex-trafficking venture; and that he

used force, fraud, and coercion to compel the victim to commit commercial sex acts from which he obtained the proceeds.

According to the indictment, Davis lured victims to his operation with promises of modeling contracts and a glamorous lifestyle. He then forced them into a grueling schedule of dancing and performing at strip clubs in Connecticut, New York, and New Jersey. When the clubs closed, Davis forced the victims to walk the streets until 4 or 5 a.m. propositioning customers. The indictment also alleged that he beat many of the victims to force them to work for him and that he also used physical abuse as punishment for disobeying the stringent rules he imposed to isolate and control them.¹⁸

As this and other examples show, human trafficking cases happen all over the United States. A few instances would represent just the “tip of the iceberg” in a growing criminal enterprise. Local and state criminal justice officials must understand that these cases are not isolated incidents that occur infrequently. They must remain alert for signs of trafficking in their jurisdictions and aggressively follow through on the smallest clue. Numerous Web sites openly (though they try to mask their actions) advertise for prostitution. Many of these sites involve young girls victimized by sex trafficking. Many of the

pictures are altered to give the impression of older girls engaged in this activity freely and voluntarily. However, as prosecutors, the authors both have encountered numerous cases of suspected human trafficking involving underage girls.

The article “The Girls Next Door” describes a conventional midcentury home in Plainfield, New Jersey, that sat in a nice middle-class neighborhood. Unbeknownst to the neighbors,

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the house was part of a network of stash houses in the New York area where underage girls and young women from dozens of countries were trafficked and held captive. Acting on a tip, police raided the house in February 2002, expecting to find an underground brothel. Instead, they found four girls between the ages of 14 and 17, all Mexican nationals without documentation.

However, they were not prostitutes; they were sex

slaves. These girls did not work for profit or a paycheck. They were captives to the traffickers and keepers who controlled their every move. The police found a squalid, land-based equivalent of a 19th-century slave ship. They encountered rancid, doorless bathrooms; bare, putrid mattresses; and a stash of penicillin, “morning after” pills, and an antiulcer medication that can induce abortion. The girls were pale, exhausted, and malnourished.¹⁹

Human sex trafficking warning signs include, among other indicators, streetwalkers and strip clubs. However, a jurisdiction’s lack of streetwalkers or strip clubs does not mean that it is immune to the problem of trafficking. Because human trafficking involves big money, if money can be made, sex slaves can be sold. Sex trafficking can happen anywhere, however unlikely a place. Investigators should be attuned to reading the signs of trafficking and looking closely for them.

INVESTIGATION OF HUMAN SEX TRAFFICKING

ICE aggressively targets the global criminal infrastructure, including the people, money, and materials that support human trafficking networks. The agency strives to prevent human trafficking in the United States by prosecuting the traffickers

and rescuing and protecting the victims. However, most human trafficking cases start at the local level.

Strategies

Local and state law enforcement officers may unknowingly encounter sex trafficking when they deal with homeless and runaway juveniles; criminal gang activity; crimes involving immigrant children who have no guardians; domestic violence calls; and investigations at truck stops, motels, massage parlors, spas, and strip clubs. To this end, the authors offer various suggestions and indicators to help patrol officers identify victims of sex trafficking, as well as tips for detectives who investigate these crimes.

Patrol Officers

- Document suspicious calls and complaints on a police information report, even if the details seem trivial.
- Be aware of trafficking when responding to certain call types, such as reports of foot traffic in and out of a house. Consider situations that seem similar to drug complaints.
- Look closely at calls for assaults, domestic situations, verbal disputes, or thefts. These could involve a trafficking victim being abused and disciplined by a

trafficker, a customer having a dispute with a victim, or a client who had money taken during a sex act.

- Locations, such as truck stops, strip clubs, massage parlors, and cheap motels, are havens for prostitutes forced into sex trafficking. Many massage parlors and strip clubs that engage in sex trafficking will have cramped living quarters where the victims are forced to stay.

Traffickers represent every social, ethnic, and racial group.

- Check for identification. Traffickers take the victims' identification and, in cases of foreign nationals, their travel information. The lack of either item should raise concern.

Detectives/Investigators

- Monitor Web sites that advertise for dating and hooking up. Most vice units are familiar with the common sites used by sex traffickers as a means of advertisement.
- Conduct surveillance at motels, truck stops, strip clubs, and massage parlors. Look to see if the girls arrive alone or with someone else. Girls being transported to these locations should raise concerns of trafficking.
- Upon an arrest, check cell phone records, motel receipts, computer printouts of advertisements, and tollbooth receipts. Look for phone calls from the jailed prostitute to the pimp. Check surveillance cameras at motels and toll facilities as evidence to indicate the trafficking of the victim.
- Obtain written statements from the customers; get them to work for you.
- Seek assistance from non-governmental organizations involved in fighting sex

trafficking. Many of these entities have workers who will interview these victims on behalf of the police.

- After executing a search warrant, photograph everything. Remember that in court, a picture may be worth a thousand words: nothing else can more effectively describe a cramped living quarter a victim is forced to reside in.
- Look for advertisements in local newspapers, specifically the sports sections, that advertise massage parlors. These businesses should be checked out to ensure they are legitimate and not fronts for trafficking.
- Contact your local U.S. Attorney's Office, FBI field office, or ICE for assistance. Explore what federal resources exist to help address this problem.

Other Considerations

Patrol officers and investigators can look for many other human trafficking indicators as well.²⁰ These certainly warrant closer attention.

General Indicators

- People who live on or near work premises
- Individuals with restricted or controlled communication and transportation

- Persons frequently moved by traffickers
- A living space with a large number of occupants
- People lacking private space, personal possessions, or financial records
- Someone with limited knowledge about how to get around in a community

aliens detained at different locations

- Third party who insists on interpreting. Did the victim sign a contract?

Brothel Indicators

- Large amounts of cash and condoms
- Customer logbook or receipt book ("trick book")
- Sparse rooms
- Men come and go frequently

CONCLUSION

This form of cruel modern-day slavery occurs more often than many people might think. And, it is not just an international or a national problem—it also is a local one. It is big business, and it involves a lot of perpetrators and victims.

Agencies at all levels must remain alert to this issue and address it vigilantly. Even local officers must understand the problem and know how to recognize it in their jurisdictions. Coordinated and aggressive efforts from all law enforcement organizations can put an end to these perpetrators' operations and free the victims. ♦

Physical Indicators

- Injuries from beatings or weapons
- Signs of torture (e.g., cigarette burns)
- Brands or scarring, indicating ownership
- Signs of malnourishment

Financial/Legal Indicators

- Someone else has possession of an individual's legal/travel documents
- Existing debt issues
- One attorney claiming to represent multiple illegal

Endnotes

¹ <http://www.routledgecognition.com/books/Human-Sex-Trafficking-isbn9780415576789> (accessed July 19, 2010).

² <http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html> (accessed July 19, 2010).

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⁹ Estes and Weiner.

¹⁰ <http://www.womenshealth.gov/violence/types/human-trafficking.cfm> (accessed July 19, 2010).

¹¹ For additional information, see Nathalie De Fabrique, Stephen J. Romano, Gregory M. Vecchi, and Vincent B. Van Hasselt, "Understanding Stockholm Syndrome," *FBI Law Enforcement Bulletin*, July 2007, 10-15.

¹² Trafficking Victims Protection Act, Pub. L. No. 106-386 (2000), codified at 22 U.S.C. § 7101, et seq.

¹³ Ibid.

¹⁴ U.S. CONST. amend. XIII, § 1: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

¹⁵ U.S. Department of Justice, "U.S. Army Soldier Sentenced to Over 17 Years in Prison for Operating a Brothel from

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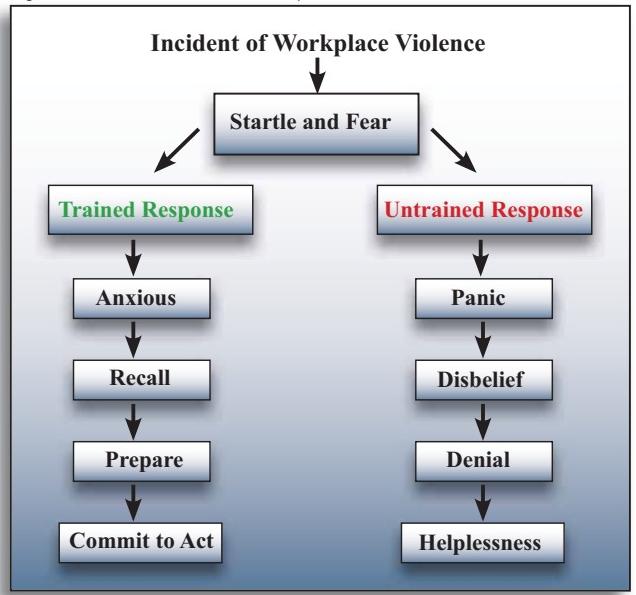
¹⁹ <http://www.nytimes.com/2004/01/25/magazine/25SEXTRAFFIC.html> (accessed July 19, 2010).

²⁰ <http://httf.wordpress.com/indicators/> (accessed July 19, 2010).

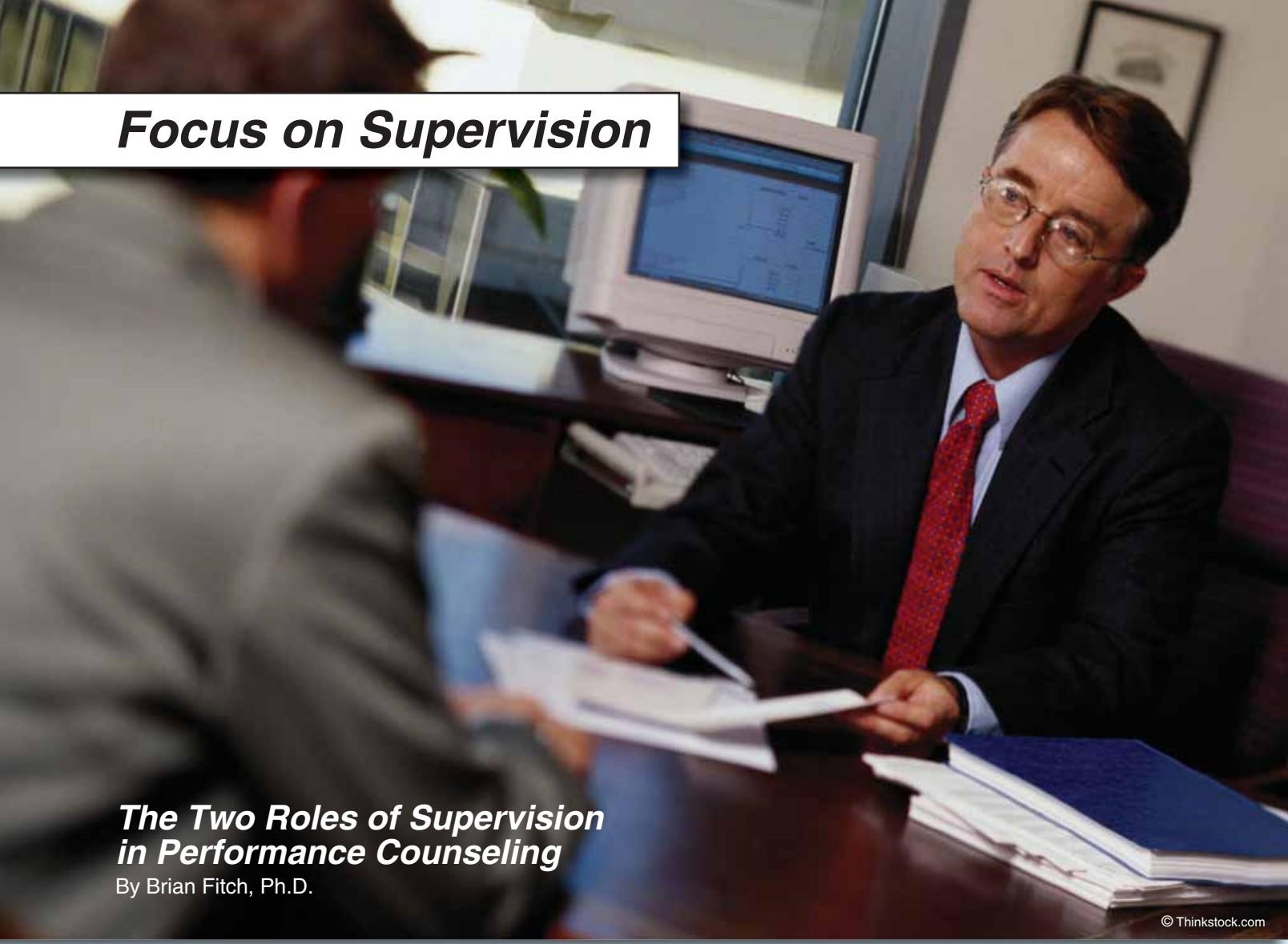
Clarification

The article "Workplace Violence Prevention: Readiness and Response," in the January 2011 issue, contained an error. Figure 4 on page 6 should have appeared as shown here. The figure has been corrected in the online version of the magazine.

Figure 4 - Untrained and Trained Responses



Focus on Supervision



The Two Roles of Supervision in Performance Counseling

By Brian Fitch, Ph.D.

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Law enforcement supervisors have two primary responsibilities in molding productive, well-disciplined officers: rewarding good behavior and correcting poor performance.¹ Fortunately, most officers support the organization, work hard, and never require any type of formal counseling. When problems do arise, they usually are solved quickly by an informal discussion without the need for any advanced preparation. Yet, despite the high quality of law enforcement personnel in most organizations, performance problems still may occur. It seems that some officers, regardless of the best efforts of well-intentioned supervisors, simply refuse to change. How leaders handle

these performance challenges can have a profound impact on employee engagement and organizational culture.

While many supervisors do a competent job of rewarding good behavior, they often find it difficult to tackle performance problems because they lack the basic tools, training, and mind-set to do so effectively. Yet, confronting problem behaviors effectively is just as critical to the success of a law enforcement agency as rewarding proper conduct. However, before leaders can expect to hold their personnel accountable for meeting organizational objectives, these employees need to know exactly what is expected of them. Too often, supervisors

assume that officers understand what is required, thereby missing important opportunities to clarify goals, solicit commitment, and provide important milestones.

The basic philosophy behind performance counseling in any law enforcement agency is the same: individual officers must be responsible for their own performance. Indeed, the effectiveness of most organizations can be greatly improved when supervisors appropriately reinforce good conduct; address ineffective behaviors early; and hold officers accountable for their performance in positive, productive ways. The author offers law enforcement supervisors and managers some of the tools and knowledge necessary to accomplish these objectives.

REINFORCING GOOD PERFORMANCE

Supervisors should begin their efforts to improve organizational performance with an understanding that most officers are committed to the agency, its mission, and its values. Provided that officers have a clear understanding of what is expected, supervisors should take every opportunity to reward good performance. In simplest terms, behavior is a function of its consequences; therefore, people are motivated to perform actions for which they are rewarded while avoiding those for which they are punished. Rewarding appropriate behavior (what psychologists refer to as positive reinforcement) can profoundly impact the broad range of behaviors that officers exhibit, as well as the productivity, morale, and effectiveness of the organization.²

Decades of scientific research have supported the finding that positive reinforcement increases

the likelihood that a behavior will be repeated (i.e., the law of effect principle).³ Similarly, behavior appropriately punished is more likely to disappear than if allowed to continue unchallenged. In either case, supervisors should be specific about the behavior being rewarded or, in other cases, punished. They should avoid generalities, such as “great job” or “poor attitude,” in favor of specific, unambiguous statements that focus on particular behaviors. For example, “I like the way you asked all of the officers present at the debriefing for their opinions, allowed each person to speak, and took notes” is more effective than “great debriefing,” which provides no specific description of the behaviors being rewarded and reinforced.

When supervisors emphasize and reinforce specific behaviors, officers have a better understanding of how to repeat their successes, maximize rewards, and avoid failures. Because the likelihood of officers repeating a behavior hinges on the reinforcement they receive, supervisors should continue to reward them each time

they perform appropriately. Only by recognizing desired behaviors consistently and directly in ways that officers find reinforcing can leaders increase the probability of their employees continuing to perform the activity in the future.

The basic principles of reward and reinforcement constantly are at work in all law enforcement organizations. Everything an officer says and does receives some kind of reinforcement—positive or negative, intentional or unintentional. Rather than relying on luck or happenstance, competent supervisors look for ways to create positive, rewarding experiences that foster effective performance.⁴

The basic philosophy behind performance counseling in any law enforcement agency is the same: individual officers must be responsible for their own performance.

Skilled supervisors continuously scan the work environment for examples of superior performance and quickly recognize officers for a job well-done. This includes employees who maintain excellent attendance, assist other officers, make valid arrests, or simply follow the rules.

CORRECTING POOR PERFORMANCE

Setting limits, holding officers accountable, and confronting poor performance can prove difficult for many supervisors. Absent the proper skills and training, most fall naturally into one of two categories: they either attempt to coerce employees into performing appropriately or try to avoid problems altogether. In the first instance, supervisors rely on their formal authority to compel acceptable performance. While this approach often proves effective at producing short-term results, it seldom motivates the type of long-term change necessary to correct chronic performance issues. In contrast, supervisors who employ the second strategy tend to avoid problems because they fear a messy confrontation and, in so doing, allow the officer's poor performance to continue unabated, often with highly predictable consequences.⁵

Fortunately, a third alternative exists: holding a formal counseling session in a positive, principled way that makes the supervisor's needs clear but respects the officer's feelings and rights. The following three-step formula—the DER model—makes it possible for leaders to set limits, confront unacceptable behaviors, and hold officers accountable:⁶

- Describe the problem
- Express the result
- Request a change in behavior



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Describe the Problem

The goal of the first step—to describe the problem in specific, objective behavioral terms—arguably is the most difficult and important aspect of conducting a successful performance-counseling session. At this point, supervisors should focus on communicating the gap between what employees currently do and the organizational standard. In other words, what are supervisors getting in terms of performance, and what do they need? It is important that the description be as objective and unarguable as possible and free of bias, emotion, or attribution.

Express the Result

During this stage, the supervisor describes the impact of the problem (i.e., the good business reasons for resolving the issue). Has the officer's behavior created more work for other personnel? Has it resulted in citizen complaints? Or, has the poor performance exposed the agency to liability? Despite the issue, the supervisor should be clear about why the officer's current performance cannot continue. Without such reasons, no basis exists for conducting a performance-counseling session. After all, simply disliking an officer's attitude or demeanor, when that conduct has no appreciable effect on the employee's work product, is insufficient grounds for a counseling session.

Request a Change in Behavior

While supervisors often find it easy to identify what they do not like, many have difficulty describing the precise behaviors necessary to remedy the situation and satisfy the organizational standard. A leader's job is to ensure that officers perform their duties in accordance with organizational policy. This means that supervisors are interested

in behaviors and, therefore, should express the necessary change in terms of clear, specific, objective actions—the more precise and quantifiable, the better.

PREPARING TO COUNSEL

Supervisors often stumble in their efforts to address performance problems because they fail to prepare adequately for the counseling session. Again, they should focus their efforts on objective, quantifiable behaviors, not such intangibles as feelings, beliefs, or attitudes. For example, if an officer has a poor attitude but performs the job well, performance counseling is not needed, although the supervisor may opt to send the employee to leadership or life-skills training. One effective way of preparing for a performance-counseling session is to create an outline highlighting the main points for discussion. Preparing ahead of time can significantly increase success in a number of ways, including enhancing supervisors' confidence, insulating them against manipulation, and providing reference material in the event they become temporarily distracted. A successful performance-counseling script should focus on five major areas of concern.⁷

Research the Problem

The old adage “failing to prepare is preparing to fail” aptly applies to counseling a performance issue. Prior to such a session, supervisors should research the details of any instance in question. For example, if an officer has received a string of courtesy complaints, the supervisor should be armed with the dates, times, and specifics of each

incident. Performing the necessary research will, among other things, enhance the supervisor's credibility, keep the conversation focused, and lay the groundwork for a successful resolution.

Describe the Issue

Supervisors should outline the problem in specific and unarguable behavioral terms while avoiding assumptions or attitudinal allegations. In other words, they should stick with the facts. Supervisors cannot possibly know what an officer is thinking or feeling. Thus, they should restrict their description to objective, quantifiable behaviors, not feelings, intuitions, or assumptions.

State the Desired Performance

Effective leaders make their observations as specific as possible and avoid vague or fuzzy statements of performance, such as “I want you to be more positive” or “I want you to enjoy your job.” The statement of desired performance should explain the organizational standard in clear behavioral terms that easily can be understood and observed.

Because supervisors often fail to develop a concise behavioral definition of what they want, they speak in general, abstract terms. Yet, if they expect officers to understand precisely what is expected of them, they must describe the desired performance clearly and objectively.⁸

Give Good Business Reasons

Absent a set of good business reasons, no performance discussion ever should take place. Preparing and presenting a list of reasons helps officers understand why their conduct is

“One effective way of preparing for a performance counseling session is to create an outline highlighting the main points for discussion.”

inappropriate and why it needs to be addressed. More important, however, it can help gain the officers' cooperation in solving the problem. Officers, like most people, tend to do better with the "what" if they understand the "why." While this process is not very difficult for most supervisors, it is critical to the success of any meaningful outcome.

List the Consequences

Regardless of the reasons for poor performance, the meeting should include a discussion of the logical consequences that will follow should the officers choose to continue in this manner.⁹ In no way should supervisors appear to threaten their officers, but they should highlight the natural implications of any future conduct—either positive or negative—that will result. Ultimately, the officers will decide whether to improve and will endure the consequences of that decision; therefore, they should understand, under no uncertain terms, precisely what is at stake.

ENSURING SUCCESS

To address performance in the most productive way possible, supervisors should remain calm, polite, and professional. Performance-counseling sessions are intended to correct performance problems, not to serve as a platform for personal agendas or as a vehicle for expressing dislike of an officer. Effective supervisors do not take performance problems personally. They understand that officers being counseled are not bad people; they are good persons experiencing a performance problem. Thus, skilled supervisors keep an open mind, treat all employees fairly, and show officers the respect that they deserve.¹⁰



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Effective leaders also understand the importance of getting to the point of the meeting early in the conversation. For example, "Officer Smith, there is a problem with your attendance, and we need to discuss it" or "Officer Donahue, you have received three complaints for courtesy in the last month, and we need to get this problem fixed" can express the reason for the discussion in clear, specific terms early in the encounter.

Throughout any performance discussion, supervisors should avoid taking responsibility for fixing the problem—emphasizing, instead, the importance of choice and personal responsibility. While the supervisor can openly discuss options,

the responsibility for fixing the problem rests squarely with the officers. After all, they choose when they come to work or how they treat the public, not their supervisor. Therefore, the officers must address the problem and experience the natural consequences of their decisions.¹¹

Because they understand the importance of reinforcement, effective supervisors quickly reward any positive change in an officer's behavior, however slight or seemingly insignificant. Unfortunately, many fail to celebrate the little things, opting instead to wait for a "breakthrough"—a complete shift in the officer's conduct—before offering reinforcement.

Because officers tend to repeat rewarded behaviors, failing to provide the appropriate positive reinforcement early enough can frustrate progress and reduce the prospect of long-term behavioral change.¹²

Finally, supervisors often fail to reinforce behaviors consistently and frequently enough to make any appreciable difference in an officer's

conduct. Reinforcing a behavior once, twice, or even three times usually is not enough. Behavioral psychologists have found that in many cases, it can take dozens, if not hundreds, of reinforcements to imprint a desired behavior. If supervisors want the new behaviors to take hold, they must invest the time and energy necessary to reward the officer's conduct appropriately; otherwise, it will be business as usual.

CONCLUSION

Rewarding proper conduct and correcting poor performance constitute the two main roles that law enforcement supervisors play. Timely, consistent recognition of a job well-done can go a long way toward helping officers remain the stalwart protectors of society. At the same time, supervisors must intervene quickly when problems arise.

They must hold officers accountable for their performance in positive, productive ways. To this end, formal counseling sessions can help supervisors deal with performance issues while respecting the feelings and rights of their employees. ♦

Endnotes

¹ For a discussion on law enforcement supervision, see Donald J. Schroeder, Frank Lombardo, and Jerry Strollo, *Management and Supervision of Law Enforcement Personnel*, 4th ed. (New York, NY: Gould Publications, 2006).

² For a complete discussion of behaviorism, see B.F. Skinner, *About Behaviorism* (New York, NY: Vintage Books, 1976).

³ For additional information, see <http://psychology.about.com/od/lindex/g/lawofeffect.htm> (accessed on June 16, 2010).

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⁵ For a complete description of styles, see Dick Grote, *Discipline Without Punishment: The Proven Strategy That Turns Problem Employees into Superior Performers*, 2nd Ed. (New York, NY: AMACOM, 2006).

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⁸ For more on setting performance objectives, see Brian Cole Miller, *Keeping Employees Accountable for Results: Quick Tips for Busy Managers* (New York, NY: AMACOM, 2006).

⁹ For a more on accountability and consequences, see Roger Connors and Tom Smith, *How Did That Happen: Holding People Accountable for Results the Positive, Principled Way* (New York, NY: Portfolio, 2009).

¹⁰ For a list of appropriate behaviors, see Kerry Patterson, Joseph Grenny, Ron McMillian, and Al Switzler, *Crucial Conversations: Tools For Talking When The Stakes Are High* (New York, NY: McGraw-Hill, 2002).

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¹² For a discussion on the importance of reinforcement and shaping, see Alan E. Kazdin, *Behavior Modification in Applied Settings*, 6th ed. (Belmont, CA: Wadsworth/Thomas Learning, 2001).

Readers interested in discussing this topic further can contact the author at bdfitch@lasd.org.

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Principles of Effective Law Enforcement Leadership

By Dan Willis

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Developing into an effective law enforcement leader is a continuous, personal learning process. Leadership is a career-long journey of self-discovery and learning from others. It involves subjugating personal interests to the greater good of others through self-giving and mentoring, developing and promoting those who work for us. It is a process of steadfastly working to fulfill the purpose of our organizations to develop effective law enforcement leaders capable of combating crime and protecting the innocent.

Managers do not merely hold a position but possess a distinct responsibility requiring

persistent efforts to proactively develop themselves and motivate, inspire, train, and develop others. Through personal self-analysis and self-discipline, managers can develop those principles that have proven effective and influential with others.

Eight principles of effective law enforcement leadership—if consistently developed and improved upon—can enable any manager to become more influential. Our challenge as managers is to continually self-evaluate to see what we proactively can do to develop and enhance these qualities within ourselves.

1) Service

The effective manager exemplifies service, self-giving, and selflessness. The core purpose of coming to work every day is to serve, to give our complete attention and effort toward developing and enhancing the abilities and interests of others. Our primary objective is to motivate others to work to their greatest potential toward preventing crime, ensuring professional and compassionate service to the public, and apprehending those who prey upon others. The essence of our profession is to serve and give of ourselves toward a greater good with the highest work ethic possible.

2) Honesty

Honesty is essential in both our personal and professional lives. Those who work for us depend upon our honesty with them in guiding their development and providing objective, constructive feedback on their work performance. Managers' written and oral communications always must be honest and forthright, without ever hiding or minimizing anything from those we work for and never undercutting their authority. Most important, leaders must be honest with themselves, honestly evaluating areas for growth and personal development.

Honesty also means having the courage to professionally tell your commanders your opinions when you believe they have done or are about to do something not in the best interest of their position or that of the department. Such honest communication is essential in a healthy organization.

3) Integrity

Developing and demonstrating integrity is essential for all law enforcement managers. Integrity depends on consistently doing what is right, meaning that which is in the best interest of the organization and of others. When others see that our motives are geared toward their own growth and development and in serving the purpose of the organization before any thought for ourselves, then they readily will trust and follow us.

4) Humility

Humility is a most vital principle in effective leadership. True humility is the quality of always looking for ways to learn from others and improve ourselves. Humility allows others to feel comfortable to come to us with ideas and initiative. Humble managers actively seek the thoughts and advice of others and look for ways to use ideas from others to make the organization more dynamic and responsive to the needs of the employees and the public. Humble managers must realize that the organization will be there long after they leave, and it is essential for them to develop the experience and expertise of those around them.

5) Purpose

Effective managers must find ways to tap into the understanding and core beliefs of their employees to get them to identify with the central purpose and nobility of our work. Through frequent and personal interaction with employees, managers can find ways to pass on our passion

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for the purpose of our work and enable our subordinates to define within themselves a basic understanding of the importance of what we do and how we have the potential to affect so many lives for the good. Getting employees to understand that there is no more noble work than protecting and serving the public well is vital for effective management.

6) Mentoring

If they are not looking constantly for ways to mentor and develop their employee, managers are not truly leading. Managers have a duty and responsibility to pass on all that they possibly can to those they supervise. Effective leaders know how much they are in debt to so many people for their own development, and each has the moral duty to teach and develop others in return. The more managers can teach and mentor others, the more effective the organization will become. The effective manager's most persistent endeavor is to find ways to guide, develop, teach, train, and provide experience for those they supervise.

7) Positive/Constructive Attitude

Managers who genuinely portray a positive and constructive attitude are like a magnet that draws others toward them. Always contagious, a positive, optimistic attitude enables employees to look for the good and to try to be constructive working to change things for the better. Effective managers consistently should portray the attitude of moving forward constructively, always looking for positive improvement and the willing cooperation of others.

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Effective managers always look for ways to learn from others and to actively train and develop them to become future leaders of the organization.
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8) Trust

Effective managers need to trust their employees. Initiative is crippled when they do not. And, without initiative, an organization becomes stagnant and unproductive. Through delegation, follow-through, and setting reasonable and clear performance expectations, managers can mentor and develop their employees while giving them the trust that everyone needs to feel. Managers must recognize that it is possible for an employee to perform a job differently or not as well as they do. Such performance is an integral part of the learning and development process. The more an employee feels trusted, the more they will take the initiative and work harder for their manager.

Conclusion

Effective law enforcement managers should be persistently looking within themselves to honestly evaluate how they can work proactively to develop each of these principles of leadership.

Effective managers always look for ways to learn from others and to actively train and develop them to become future leaders of the organization. Through the cultivation of an attitude of service, selflessness, giving, and devotion to our core purpose as law enforcement officers, we as managers can learn how to become more influential with our employees and to guide them in providing the most effective and professional service to the public. ♦

Lieutenant Willis serves with the La Mesa, California, Police Department.

Leadership Spotlight

Leadership Etiquette and Common Sense

Recently promoted or transferred supervisors can find effectively leading a new unit or group challenging. Throughout my career in law enforcement, I have encountered exceptional supervisors embodying a number of positive leadership characteristics; I also have seen some ineffective individuals. A brief discussion of both types can provide some positive messages to future law enforcement supervisors, managers, and executives.

I recall one supervisor whose insecurity and arrogance caused him to order his trusted subordinates to monitor their colleagues for derogatory discussions about him. Another supervisor was so inexperienced and paranoid that when a frivolous complaint was levied against a subordinate, he personally interviewed all parties, creating needless chaos and impacting his credibility. I also remember receiving an excellent yearly evaluation from a second-line supervisor I worked with for a number of years. Also present at my appraisal was a new first-line supervisor who, despite my great evaluation, said to me, "I heard you have problems with women and that you're a hot head." Both my second-line supervisor and I were shocked, and I was offended. In a professional manner, I firmly denied these false, hurtful allegations, which contradict my character and life circumstances.

My interaction with extraordinary leaders, tempered by my contact with unsuccessful managers, has led me to compile a list of valued leadership traits and skills. Cultivating the behaviors and qualities on this list simply requires exercising leadership etiquette and common sense.

- When leading a new team, do not fall prey to assumptions based on gossip. Sit back and evaluate your subordinates' talents. Review their strengths and weaknesses. Assess their training and equipment needs. Proactively try to understand both your challenges and theirs. Always be professional, honest, and truthful in your interactions. Your credibility means everything.
- Mentor your personnel to ensure they are well prepared to safely execute the mission. Value and respect seniority. Have senior personnel help train and develop junior officers. Formulate reasonable goals for your people with clearly defined objectives. Always lead in a manner toward accomplishing the mission.
- As an agent of affirmative change for your personnel, you are their conduit to upper management. You serve as the ethical compass guiding their ambassadorship to the general public. Represent the department with distinction, pride, honor, and civility.
- True leadership is not bestowed based on a promotion. You earn respect for your leadership abilities through servant leadership, trust, and mutual understanding. As a leader, your best moments will occur when you relish in the background of your team's success. ♦

*Resident Agent in Charge Thomas J. Karabanoff
of the U.S. Fish and Wildlife Service, Office of Law
Enforcement, northern Texas/Oklahoma district,
prepared this Leadership Spotlight.*

Police Practice



Decreasing Urban Crime

By Esther Hyatt, M.S.W., and John Dixon III

Petersburg Bureau of Police

Petersburg, located in south central Virginia, has a population of about 30,000 people and encompasses 23 square miles—relatively compact compared with surrounding jurisdictions. The city also sits approximately 25 miles south of Richmond, the state capital. From January 2005 to December 2008, an alarming increase in violent crime occurred, earning Petersburg the notorious distinction of the most violent city per capita and the most dangerous place to live in the state.

Fortunately, however, crime has plummeted from synergistic improvements in public safety with input from law enforcement, community agencies, residents, elected officials, and media partners. Key philosophical tenets

important to the transformation have included officer accountability, community involvement, and partnerships.

A Safer Community

Violent crime decreased drastically, going from 654 incidents in 2008 to 329 incidents in 2009, a 50 percent decline. Violent crime includes murder, nonnegligent manslaughter, aggravated assault, forcible sex offenses, and robbery. Property crimes also declined during this period.

Of the 329 violent crimes in 2009, most notably contributing to the decrease were a 49 percent reduction in aggravated assaults and a 52 percent decline in robberies. In 2008, 335 cases of

aggravated assault occurred, compared with 170 incidents in 2009. The number of robberies fell from 257 to 122 during the same time frame. In 2008, the city experienced 4,777 property crimes, compared with 3,430 in 2009. Theft from autos encompassed a large number of total property crimes; according to an analysis of police reports, most items stolen were valuables left in plain view. Incidents of property crime could be significantly lower if individuals would use extra vigilance by removing visible valuables from unattended vehicles.

This trend has continued. The first 6 months of 2010 have shown further decreases of 30 percent in violent crime. The agency's strategy certainly has resulted in a safer city.

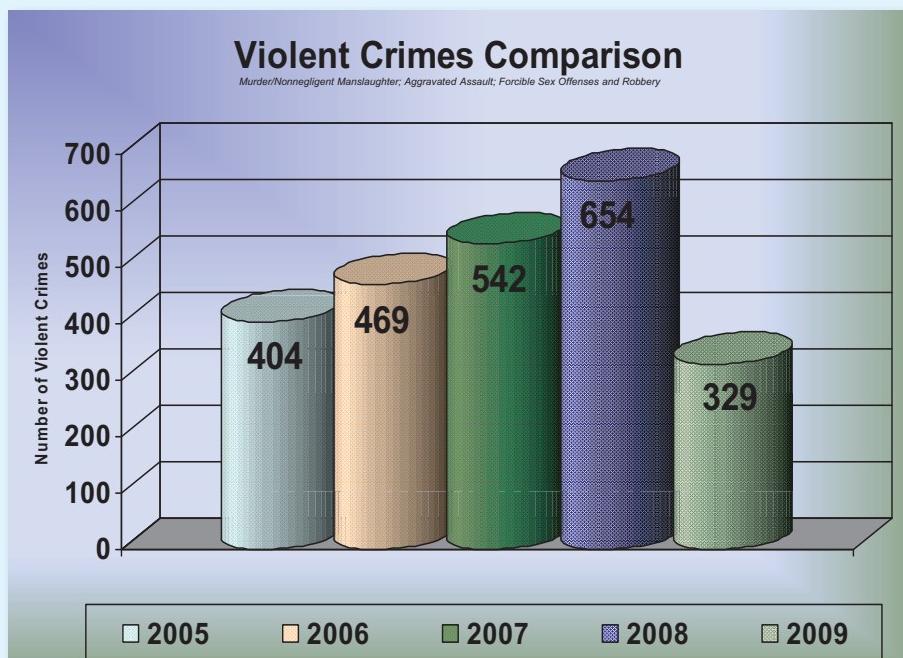
A Successful Effort

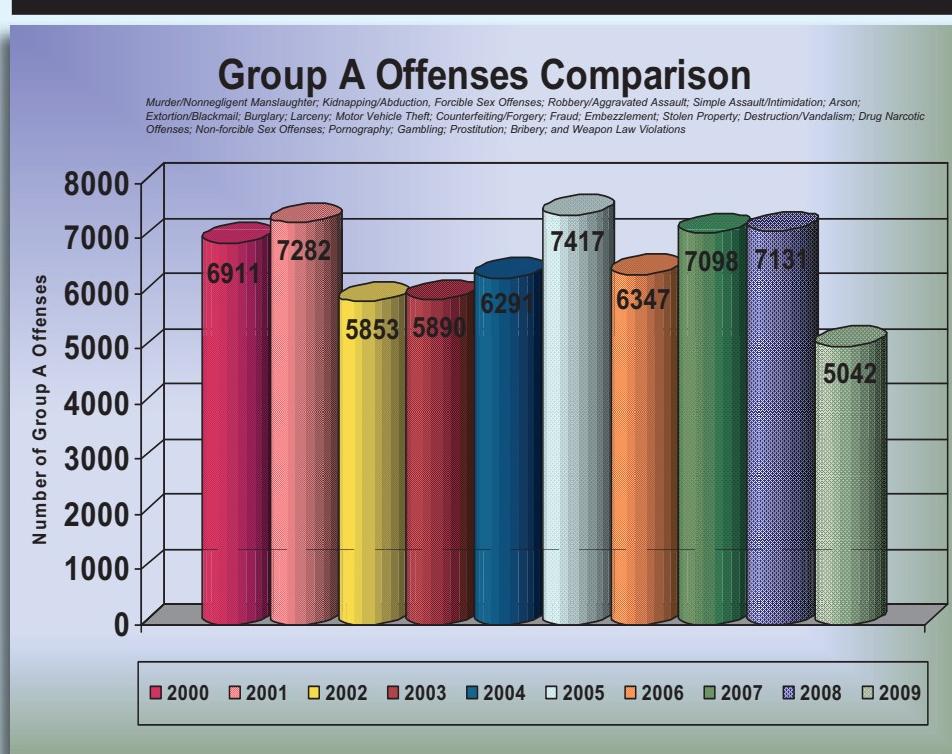
The successful crime decline has resulted from several key elements. Some of these include an increased retention rate of officers, successful grant attainment, strategic focus on crime patterns, and community ownership and shared responsibility in crime control.

During the period of 2007 and the first half of 2008, a Petersburg police officer's salary was significantly less than in surrounding jurisdictions. Concerned citizens pressured city council with a petition of nearly 300 signatures, letters to the newspaper editor, public comments, and community rallies, all of which resulted in the highest single-time increase in police salaries. Dispatchers and other administrative personnel also received raises. In May 2008, the department

operated at 75 percent capacity of sworn officers, with only 80 of the then-authorized 112 positions filled. A federal grant through the Recovery Act of 2009 allowed the agency to increase its sworn strength by 5 officers to 117 positions. Since the salary increase in July 2008, 16 certified officers from other jurisdictions joined Petersburg's force. Of those, only 2 have resigned from the department, making retention the highest it has been in over a decade.

Community involvement has contributed significantly to the reduction of crime within the city. Officers are directly involved with Petersburg Dinwiddie Crime Solvers; the Police Summer Youth Enrichment Program; Neighborhood Watch groups; community events, such as National Night Out Against Crime; community-based crime trends meetings; and themed academies. The chief's office coordinated community picnics during potentially volatile summer months with local motorcycle groups in various parts of the city, and merchants eagerly donated food, supplies, and games. Radio





personalities hosted summer events, which added a greater attraction to the large crowds. Children participated in bike rodeos and received complimentary safety helmets to encourage safe outdoor physical activity. Several community groups and organizations exist within Petersburg, including Petersburg/Dinwiddie Crime Solvers, Summer Youth Enrichment, and 22 Neighborhood Watch groups. Community events include Police and Community Together (PACT), National Night Out Against Crime, and community focus groups. One of the major goals of these community groups is to get as many civilians as possible to participate in anticrime efforts.

Community involvement also includes the anonymous tips system Crime Solvers. Petersburg Dinwiddie Crime Solvers, a nonprofit organization, allows citizens to report crimes or the whereabouts of fugitives. Its Web site, <http://www.pdcrimesolvers.org>, has had a 67 percent increase in visitors because of the addition of fugitive photos in the winter of 2009. In some cases, fugitives have turned themselves in after becoming

prominently featured on the site. The organization celebrates 25 years of existence in 2010 and has a strong, transparent, and accountable board of volunteers representing businesses, community leaders, and government bodies.

Technology advancements also have led to the drop in crime. Improved training and the use of more sophisticated computer systems to allow for real-time processing of crime incidents had an immediate impact. Officers have the capability to use mobile data terminals in their vehicles to log reports from the field, rather than traveling to and spending time at the station typing reports. This has increased statistical accuracy and enhanced the submission of data to law enforcement regulating bodies.

Conclusion

The combination of focused management and encouragement to address problems while holding officers accountable has made a profound difference in the prevention, response, and ownership of public safety in Petersburg, Virginia. By creating

a culture of competency, high standards, and constant communication with citizens, the city has experienced the largest crime drop in a decade. Of significance, the transformation has been successful citywide, not merely an improvement limited to small areas. Petersburg's success demonstrates that crime in urban areas can be successfully counteracted. ♦

Ms. Hyatt is a public information official with the Petersburg, Virginia, Bureau of Police.

Chief Dixon heads the Petersburg, Virginia, Bureau of Police.

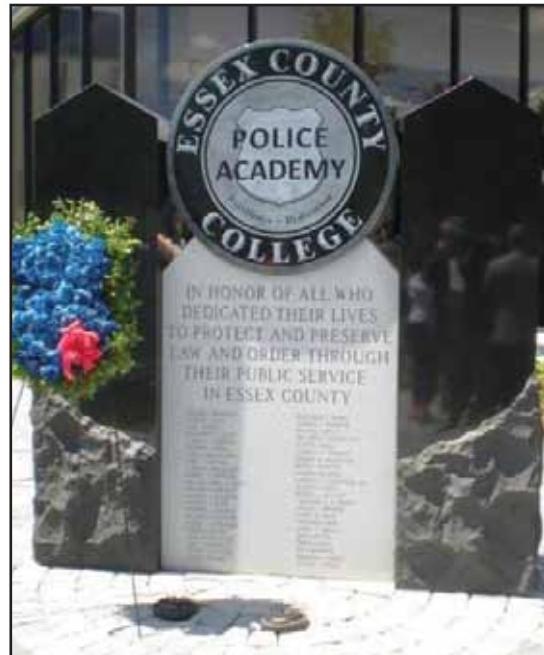
Teamwork has been an essential component in dramatically reducing the crime rate. In addition to Chief Dixon, the team includes Major Charlene Hinton, chief of staff; Major Lewis James, chief of investigations; Major Bill Rohde, chief of operations; Captain Gregory Ozmar, department inspector; Sherwood Young, communications director; Esther Hyatt, who is in charge of Crime Solvers, payroll, grants, and public information; and Randy Mason, who manages technology. Additionally, there are several special units led by individuals who also participate in developing and implementing the department's strategic vision.

Chief John Dixon III invites queries for more information. Contact him at <http://www.petersburg-va.org/police/index.asp>; 37 East Tabb Street, Petersburg, Virginia 23803; or 804-732-4222.

Bulletin Honors

Essex County Police Academy Law Enforcement Officer Memorial

The Essex County College Police Academy, located in Cedar Grove, New Jersey, held a dedication ceremony for its recently constructed law enforcement officer memorial on June 7, 2010. The monument displays the names of 84 law enforcement officers who sacrificed their lives to protect the citizens of Essex County. The names date as far back as 1854 and include officers from 14 different agencies in the county. The 7-foot-tall stone monument bears the academy's insignia and has two dark, pointed granite pillars on either side. Surrounding the memorial are stones inscribed with the names of individual or corporate donors who wish to honor these fallen officers.



Bulletin Report

Roadside Visibility Issues

Keeping Officers Safe on the Road, written by Beth Pearsall, contains information from several reports that highlight visibility issues for law enforcement and safety personnel responding to roadside incidents. The National Institute of Justice (NIJ) collaborated with fire service and automotive engineering agencies on several studies that address roadway safety. Increasing emergency vehicle visibility and developing training and tools aimed at keeping first responders safe on the road emerged as the next steps in the effort to prevent future tragedies.

The Human Toll

Preliminary data for 2009 from the National Law Enforcement Officers Memorial Fund showed that for the 12th year in a row, more officers were killed in the line of duty in traffic incidents than from any other cause of death, including shootings. According to a U.S. Fire Administration study for 2008, 28 out of the 118 firefighters who died while on duty were killed in vehicle crashes. Another 5 were struck and killed by vehicles. These sobering statistics clearly demonstrate the need to protect law enforcement officers, firefighters, and other first responders as they perform their duties on the nation's streets and highways.

The Standards

Several factors affect a vehicle's visibility, including its size and color. Environmental conditions, such as the weather and time of day, also play a role in whether drivers easily can see emergency vehicles along the road. Emergency vehicles have features designed to draw attention to them (e.g., warning lights, sirens and horns, and

retroreflective striping that reflects light back to its source) that provide information about their size, position, speed, and direction of travel so drivers can take suitable action.

Some emergency response fields have national standards that govern the visibility of vehicles. The National Fire Protection Association's Standard for Automotive Fire Apparatus requires fire trucks and ambulances in the United States to have retroreflective striping and markings in multiple locations. Although law enforcement does not have a similar national standard, many agencies apply retroreflective markings to patrol cars, motorcycles, and other vehicles. In addition, the demands of the law enforcement profession create unique visibility issues. Under certain circumstances, officers may need to have their vehicles become nearly invisible to other drivers, so a balance must occur between high visibility versus stealth situations.

The Studies

The NIJ-funded research conducted by the U.S. Fire Administration and the International Fire Service Training Association took a closer look at some commercially available products to determine whether they help increase emergency vehicle visibility and improve roadway safety for emergency responders and the public. Researchers found that retroreflective materials can help heighten emergency vehicle visibility, especially during nighttime conditions; contrasting colors can help civilian drivers find a hazard amid the visual clutter of the roadway; and fluorescent colors, especially yellow-green and orange, offer higher visibility during daylight hours. They also identified ways for first responders to improve the ability of civilian drivers

to see and recognize emergency vehicles, including using retroreflective material to outline an emergency vehicle; placing these markings lower on the vehicles to take advantage of headlights from approaching traffic; using fluorescent retroreflective material when responders want a high degree of day- and nighttime visibility; and applying distinctive logos or emblems made with retroreflective material to improve emergency vehicle visibility and recognition.

The U.S. Fire Administration and the Society of Automotive Engineers conducted a separate NIJ-funded study to examine warning lights. Researchers looked specifically at how the color and intensity of warning lights affect driver vision and emergency vehicle safety during the day and night. They examined whether the lights alerted drivers to the presence and location of an emergency vehicle as intended or whether they unnecessarily distracted drivers or hindered their ability to detect emergency responders on foot. Based on the findings from this study, researchers offered three recommendations.

1. Consider different intensity levels of warning lights for day and night.
2. Make more overall use of blue lights both day and night.
3. Use color to make a clear visual distinction between parked emergency vehicles in two different paths.

The Tools

NIJ also has supported developing Web-based tools that will help improve the safety of law enforcement officers, firefighters, and other emergency responders on the roadways. The U.S. Fire Administration collaborated with the Cumberland

Valley Volunteer Firemen's Association's Emergency Responder Safety Institute to create ResponderSafety.com. This Web site contains the latest news and training on roadside safety, as well as recent cases of on-duty responders injured or killed by vehicles. The site aims to become a place where transportation, public safety, and emergency personnel around the country can share lessons learned, thus helping them to respond more safely and effectively to roadway incidents.

The U.S. Fire Administration also worked with the International Association of Firefighters to develop "Improving Apparatus Response and Roadway Operations Safety for the Career Fire Service," a separate Web-based training program. The two organizations are expanding this to cover all emergency responders, including law enforcement.

Conclusion

Roadside safety issues are complex. Using warning lights and retroreflective material to increase an emergency vehicle's visibility is just one important focus area. Setting up a proper safety zone at the scene of an accident or other roadside hazard, as well as increasing the visibility of emergency responders on foot, also is critical. Perhaps one of the most essential parts of the equation is the alertness of civilian drivers and their ability to recognize an emergency vehicle and take suitable action.

The National Institute of Justice is continuing to work with law enforcement, firefighters, and other emergency responders, as well as the public, to address these concerns and help improve safety for everyone on the road. To read the complete report (NCJ 229885), access the National Criminal Justice Reference Service's Web site, <http://www.ncjrs.gov>. ♦

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The Emergency Aid Exception to the Fourth Amendment's Warrant Requirement

By MICHAEL T. PETTRY, J.D.

From a structure billowing smoke to a desperate cry for help from within a home, officers routinely confront a variety of situations that require them to act swiftly and decisively. Unlike the more traditional functions of law enforcement that generally afford officers adequate time to investigate crime and develop the appropriate legal justification before arresting a perpetrator or

conducting a search, emergency situations do not allow them the opportunity to wait. In such instances, officers must make split-second decisions as to whether they should intervene to assist someone in immediate danger or prevent a potentially violent situation from escalating.

To this end, the author will address the authority of law enforcement officers to act

without warrants in situations normally requiring them but presenting exigent circumstances that prohibit investigators from proceeding as deliberately as usual. This discussion will address the circumstances giving rise to this authority and limitations on how far the officer can proceed without securing a warrant, incorporating Supreme Court treatment of this issue.

Objective Reasonableness

The need for law enforcement to intervene in the face of a crisis without the requirement of judicial oversight has long been recognized by the judiciary. As Chief Justice (then Judge) Burger noted in *Wayne v. United States*:

[A] warrant is not required to break down a door to enter a burning home to rescue occupants or extinguish a fire, to prevent a shooting or to bring emergency aid to an injured person. The need to protect or preserve life or avoid serious injury is justification for what would be otherwise illegal absent an exigency or emergency. Fires or dead bodies are reported to police by cranks where no fires or bodies are to be found. Acting in response to reports of "dead bodies," the police may find the "bodies" to be common drunks, diabetics in shock, or distressed cardiac patients. But the business of policemen and firemen is to act, not to speculate or meditate on whether the report is correct. People could well die in emergencies if police tried to act with the calm deliberation associated with the judicial process. Even the apparently dead often are saved by swift police response. A myriad of circumstances could fall

within the terms "exigent circumstances" ... e.g., smoke coming out a window or under a door, the sound of gunfire in a house, threats from the inside to shoot through the door at police, reasonable grounds to believe an injured or seriously ill person is being held within.¹

More recently, noted Fourth Amendment scholar Wayne R. LaFave wrote: "[B]y design or default, the police are also expected to reduce the opportunities for the commission of some crimes through preventive patrol and other measures, aid individuals who are in danger of physical harm, assist those who cannot care for themselves, resolve conflict, create and maintain a feeling of security in the community, and provide other services on an emergency basis."²

In the event officers must enter an area where an individual has a reasonable expectation of privacy, the Fourth Amendment's protection against "unreasonable searches and seizures" is inevitably implicated.³ As the Supreme Court held in the landmark case of *Katz v. United States*,⁴ only "reasonable" searches are permitted under the Fourth Amendment, and, in the absence of one of the judicially recognized exceptions to the warrant requirement, searches conducted without a warrant are, *per se*, unreasonable. If the government enters an individual's home without having previously secured a warrant, the entry will be considered "presumptively unreasonable."⁵

In spite of the presumption that a police officer's entry without a warrant into a home is

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The need for law enforcement to intervene in the face of a crisis without the requirement of judicial oversight has long been recognized by the judiciary.

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Special Agent Pettry is a legal instructor at the FBI Academy.

unlawful, both state and federal courts consistently have held that various situations exist that because of their nature permit a warrantless search.⁶ Included among the judicially recognized exceptions to the Fourth Amendment's warrant requirement is the exigent circumstances exception. The United States Court of Appeals for the Sixth Circuit in *United States v. Williams* described this exception as including "situations where real immediate and serious consequences will certainly occur if a police officer postpones action to obtain a warrant."⁷ Examples of this exception are warrantless entries onto private property to fight fire and investigate its cause,⁸ to prevent the imminent destruction of evidence,⁹ and to engage in "hot pursuit" of a fleeing subject.¹⁰

In recognition of the need for police officers to respond appropriately to emergency situations, the Supreme Court noted in its decision in *Mincey v. Arizona* that "the Fourth Amendment does not bar police officers from making warrantless entries and searches when they reasonably believe that a person within [a private residence] is in need of immediate aid."¹¹ Although the holding in *Mincey* was limited to the question of whether there existed a "crime scene exception" to the Fourth Amendment's warrant requirement—in other words,

the extent to which law enforcement can act without a warrant once the emergency is over—its language has been used by courts to clarify the circumstances under which officers can make warrantless entries and conduct searches in emergency situations.

...officers have the authority to make warrantless entries into...areas protected by the Fourth Amendment to resolve emergency situations provided they have an objectively reasonable basis to do so.

In 2006, the Supreme Court specifically addressed the emergency aid exception in *Brigham City v. Stuart*.¹² During the 2009-2010 term, the Supreme Court again addressed this exception in *Michigan v. Fisher*.¹³ These decisions provide significant clarification of the legal basis upon which officers rendering emergency aid to others can make warrantless entries into homes and other areas protected by the Fourth Amendment.

The specific issue addressed by the Supreme Court

in *Brigham City* was whether "police may enter a home without a warrant when they have an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury."¹⁴ In this case, officers responded in the early morning hours to a call regarding a loud party at a residence. Officers approached the residence after hearing shouting from inside. As they approached the home, the officers also observed two juveniles drinking beer in the backyard. From their vantage point in the backyard, the officers observed an altercation taking place inside of the home through a screen door and windows. At the time they looked into the home, the officers observed several adults attempting to restrain a juvenile.¹⁵ The young person managed to break free of the adults' grasp and struck one of them in the face with his fist.¹⁶ The victim of the blow proceeded to spit blood into a nearby sink as the other adults tried to restrain the juvenile by "pressing him up against a refrigerator with such force that the refrigerator began moving across the floor."¹⁷ At this point, one of the responding officers opened the screen door and announced the officers' presence. Because of the chaos unfolding inside of the home, none of the occupants responded, and the officers entered the kitchen,

where they again announced their presence.¹⁸ The altercation ended shortly after the occupants discovered that the police had entered the home. Once inside, the officers arrested Stuart and several other occupants for contributing to the delinquency of a minor, disorderly conduct, and intoxication.

Prior to trial, the defendants filed a motion to suppress all evidence, claiming that the officers' warrantless entry into the home violated the Fourth Amendment.¹⁹ The trial court agreed that the evidence should be suppressed. The Utah Court of Appeals and the Utah Supreme Court upheld this decision.²⁰ The city appealed these rulings to the U.S. Supreme Court, which agreed to hear the case to provide much-needed guidance as to what Fourth Amendment standard should govern law enforcement officers' warrantless entries to protected areas under the "emergency aid" exception.

In its unanimous decision reversing the ruling of the Utah Supreme Court, the Supreme Court recognized that "[o]ne exigency obviating the requirement of a warrant is the need to assist persons who are seriously injured or threatened with such injury."²¹ The Court further added that "[t]he need to protect or preserve life or avoid serious injury is justification

for what would be otherwise illegal absent an exigency or emergency."²²

Although the defendant in this case, Stuart conceded that the Fourth Amendment permits officers to take appropriate action to respond to an emergency situation. He urged the Court to uphold the lower court's ruling that the officers' actions were unreasonable for other reasons. First, Stuart argued that the officers' actions should be viewed as unreasonable as their true

question are reasonable as opposed to focusing on the subjective motivations of the officer. According to the Court, "the issue is not his state of mind, but the objective effect of his actions."²⁴ An officer's subjective motivation or intention is irrelevant in such instances.²⁵ In applying this principle to the facts in *Brigham City*, the Court stated that "[i]t therefore does not matter here—even if their subjective motives could be so neatly unraveled—whether the officers entered the kitchen to arrest respondents and gather evidence against them or to assist the injured and prevent further violence."²⁶

The Court also rejected Stuart's contention that the altercation the officers observed was not serious enough to justify their warrantless entry into the home. In support of his argument, Stuart attempted to draw an analogy between the facts in this case and those in *Welsh v. Wisconsin*, where the Supreme Court held that "an important factor to be considered when determining whether any exigency exists is the gravity of the underlying offense for which the arrest is being made."²⁷ In *Welsh*, the Supreme Court held that the officers' warrantless entry into a home to arrest a suspect for driving under the influence was not justified because the only "potential



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intent in entering the home was to effect an arrest rather than to render emergency assistance.²³ The Supreme Court expressly rejected Stuart's argument, citing well-established Fourth Amendment principles that stand for the proposition that the appropriate focus in evaluating an officer's actions is deciding whether the specific actions in

emergency” confronting the officers was the need to preserve evidence (the suspect’s blood alcohol level). In finding that the officers’ actions violated the Fourth Amendment, the Court noted that “[b]efore agents of the government may invade the sanctity of the home, the burden is on the government to demonstrate exigent circumstances that overcome the presumption of unreasonableness that attaches to all warrantless home entries.”²⁸

What made *Brigham City* different, according to the Court, was the fact that “the officers were confronted with *ongoing* violence *within* the home.”²⁹ It was this key distinction between the cases that served to make the officers’ actions reasonable. Rather than simply trying to procure evidence for eventual use at trial, the officers in *Brigham City* faced a situation that presented a very real risk of serious injury to those involved. As the Court noted, “the officers had an objectively reasonable basis for believing both that the injured adult might need help and that the violence in the kitchen was just the beginning. Nothing in the Fourth Amendment required them to wait until another blow rendered someone ‘unconscious’ or ‘semiconscious’ or worse before entering.”³⁰ In language that plainly describes the realities confronted by law

enforcement officers, the Court further noted that “[t]he role of a peace officer includes preventing violence and restoring order, not simply rendering first aid to casualties; an officer is not like a boxing (or hockey) referee, poised to stop a bout only if it becomes too one-sided.”³¹

Included among the judicially recognized exceptions to the Fourth Amendment’s warrant requirement is the exigent circumstances exception.

In addition to finding that the officers’ entry into the home was reasonable, the Court also found their *manner* of entry appropriate under the circumstances. After witnessing the assault, one of the officers opened the screen door to the home and yelled “police.”³² When there was no response, the officer then stepped into the kitchen and again announced his presence. Only then did the melee begin to subside. In reaching its determination that the officers’ entry into the home was reasonable and did not violate the Fourth Amendment’s

“knock and announce” rule, the Court noted that the officer’s announcement of his presence may have been the only option given the noise and chaos within the home. Under these circumstances, once they had announced their presence, the officers were permitted to enter the home as “it would serve no purpose to require them to stand dumbly at the door awaiting a response while those within brawled on, oblivious to their presence.”³³

In its 2009 term, the Supreme Court decided *Fisher*, which, like *Brigham City*, involved officers’ entry into a residence without a warrant to respond to an emergency situation. In *Fisher*, local police responded to a disturbance call and, as they approached the area, were met by a couple who directed them to a residence where a man was “going crazy.”³⁴ Upon their arrival at the home, the officers found a pickup truck in the driveway with front-end damage and damaged fence posts along the side of the property.³⁵ The officers further noted that several of the home’s windows were broken and that there was blood on the hood of the pickup, the clothes inside of it, and one of the doors to the house.³⁶ Through a window, the officers observed Fisher screaming and throwing things inside of the house.³⁷

The officers knocked on the door, but Fisher refused to answer. After noticing a cut on his hand, the officers inquired if he needed medical attention. Fisher ignored the officers' questions and demanded that they obtain a search warrant. One of the officers then pushed the front door partially open and entered the home. Upon observing Fisher pointing a gun at him, the officer retreated from the residence.

Subsequent to the incident at the home, Fisher was charged in state court with assault with a dangerous weapon and possession of a firearm during the commission of a felony.³⁸ Prior to trial, Fisher filed a motion to suppress the officer's observation that he possessed a firearm, claiming that the officer's entry into the home violated the Fourth Amendment.³⁹ The trial court agreed with Fisher. This decision was affirmed by the Michigan Court of Appeals on grounds that the situation the officers encountered at the home "did not rise to a level of emergency justifying the warrantless intrusion into a residence."⁴⁰ The Court acknowledged that "there was evidence an injured person was on the premises," but based its decision to affirm the lower court's ruling on the fact that "the mere drops of blood did not signal a likely serious, life-threatening injury."⁴¹

The U.S. Supreme Court, in a *per curiam* opinion, reversed the Michigan Court of Appeals' decision, finding that the state court's rulings were contrary to a long line of relevant Fourth Amendment cases, particularly *Brigham City*.⁴² As discussed earlier, the Court in *Brigham City* held that the officers' warrantless entry into a home was reasonable under the Fourth Amendment as they

the facts known to them *at the time* and not a "hindsight determination that there was in fact no emergency."⁴⁴ The Court concluded that "it was reasonable to believe that Fisher had hurt himself (albeit nonfatally) and needed treatment that in his rage he was unable to provide, or that Fisher was about to hurt, or had already hurt, someone else."⁴⁵

Limitations on Authority

As the *Fisher* and *Brigham City* decisions both illustrate, law enforcement officers have the authority to make warrantless entries into residences and other areas protected by the Fourth Amendment to resolve emergency situations provided they have an objectively reasonable basis to do so. However, once the emergency situation has been addressed, their ability to conduct further investigation may be limited. As noted, "[O]nce the exigent circumstances have been extinguished and the purpose of the scene's examination has evolved into one in which evidence to be used in a criminal proceeding is being sought, the warrant requirement of the Fourth Amendment is reestablished and must be scrupulously honored."⁴⁶

Conclusion

Although courts have long recognized the existence of an



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had an objectively reasonable basis for believing that a person located therein needed immediate assistance. In applying this standard to the facts presented in *Fisher*, the Court found that the emergency aid exception permitted the officers to enter the home even if they did not have "ironclad proof" of a life-threatening situation.⁴³ What was important was whether the officers' actions were objectively reasonable based upon

exigent circumstance exception to the Fourth Amendment's warrant requirement, the Supreme Court's decisions in *Brigham City* and *Fisher* provide much-needed guidance to officers who routinely confront situations, such as those present in these two cases. Reliance on an objective reasonableness standard allows for scrutiny based on the facts and circumstances confronting law enforcement at the time, as opposed to guesswork regarding the officers' intentions and consideration of information learned after the fact.

The legal standard set forth by the Court in these cases enables officers to make on-the-spot decisions as to whether they should enter a home or other dwelling to resolve an emergency situation. Because the government has the burden of justifying warrantless searches and seizures occurring under this exception, officers need to fully articulate the specific facts and circumstances known to them at the time they acted. This is essential because the courts use an examination of the totality of the circumstances to determine whether officers had reasonable grounds to act.⁴⁷ ♦

Endnotes

¹ 318 F.2d 205, 212; 115 U.S. App.D.C. 234, 241 (D.C. Cir. 1963).

² Wayne R. LaFave, *3 Search and Seizure: A Treatise on the Fourth Amendment* § 6.6 (4th ed.) (quotations omitted).

³ U.S. Const. amend. IV.

⁴ 389 U.S. 347, 357 (1967).

⁵ *Payton v. New York*, 445 U.S. 573, 586 (1980).

⁶ See, e.g., *Blake v. State*, 954 A.2d 315 (Del. 2008); *State v. Cline*, 696 S.E. 2d 554 (N.C. App. 2010); *United States v. Porter*, 594 F.3d 1251 (10th Cir. 2010).

⁷ 354 F.3d 497, 503 (6th Cir. 2003) (internal quotations omitted).

⁸ *Michigan v. Tyler*, 436 U.S. 499, 509 (1978).

⁹ *Ker v. California*, 374 U.S. 23, 40 (1963).

¹⁰ *United States v. Santana*, 427 U.S. 38, 42 (1976).

Brigham City v. Stuart, 57 P.3d 1111 (Utah App. 2002).

²¹ *Id.* at 403.

²² *Id.* at 403 (quoting *Mincey, supra*, at 392).

²³ *Id.* at 404.

²⁴ *Id.* at 404 (quoting *Whren v. United States*, 517 U.S. 806 (1996)).

²⁵ See *Bond v. United States*, 529 U.S. 334, 338 n. 2 (2000).

²⁶ *Id.* at 405.

²⁷ *Id.* at 405 (quoting *Welsh v. Wisconsin*, 466 U.S. 740, 753 (1984)).

²⁸ *Welsh* at 750.

²⁹ *Id.*

³⁰ *Id.* at 406.

³¹ *Id.*

³² *Id.*

³³ *Id.* at 407.

³⁴ *Fisher* at 547.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* at 549.

⁴¹ *Id.* The Michigan Supreme Court agreed to hear the case, but, after hearing oral argument, vacated its order and let the lower court's ruling stand.

⁴² *Id.* at 548.

⁴³ *Fisher* at 549 (internal quotations omitted).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Lucy Ann Hoover, "Law Enforcement Response at a Crisis Scene: Protecting Lives and Preserving the Admissibility of Evidence," *FBI Law Enforcement Bulletin*, April 2006, p. 30.

⁴⁷ See, *United States v. Najar*, 451 F.3d 710 (10th Cir. 2006).

Law enforcement officers of other than federal jurisdiction who are interested in this article should consult their legal advisors. Some police procedures ruled permissible under federal constitutional law are of questionable legality under state law or are not permitted at all.

Bulletin Notes

Law enforcement officers are challenged daily in the performance of their duties; they face each challenge freely and unselfishly while answering the call to duty. In certain instances, their actions warrant special attention from their respective departments. The *Bulletin* also wants to recognize those situations that transcend the normal rigors of the law enforcement profession.



Deputy Battle



Deputy Phillips



Deputy Cochran

One early morning, Deputy Sheriffs Jeremy Battle, Chad Phillips, and Josh Cochran of the Gordon County, Georgia, Sheriff's Office responded to an automobile crash. Upon arrival, the officers witnessed a vehicle fully engulfed in flames on the side of the road. One occupant remained inside the vehicle, and a passerby struggled to open the driver's door. Im-

mediately, Deputy Battle doused the flames with a fire extinguisher, and Deputies Phillips and Cochran attempted to force the vehicle open to remove the driver.

After he exhausted his own fire extinguisher, Deputy Battle ran to a parked tractor trailer in search of another. As Deputy Battle continued to fight the fire and Deputies Phillips and Cochran struggled to reach the trapped driver, the vehicle burst into flames at least three more times. Despite the grave danger that this inflicted on the officers, they persisted until they could control the flames, force open the passenger door, and extricate the driver. The victim received emergency medical attention and flew by helicopter to a nearby hospital.



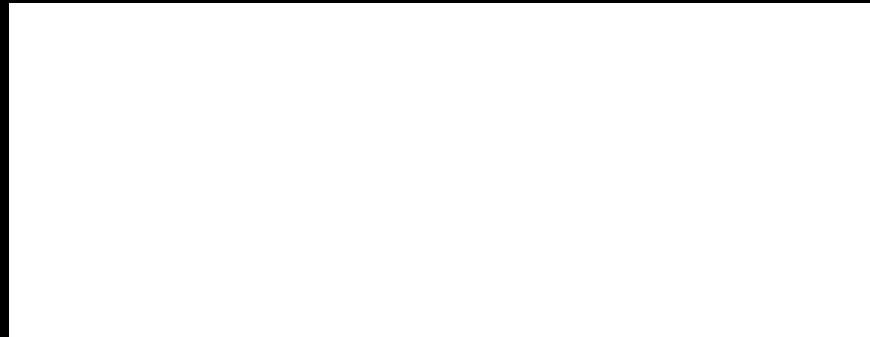
Corporal Mora

One weekend, during an off-duty rafting trip, Corporal Neal Mora of the Texas City, Texas, Police Department rescued a fellow officer's son from drowning. As Corporal Mora prepared his raft along the bank of the river, he noticed the 7-year-old child in serious distress. The boy was struggling to swim to safety in the rough river and was in imminent danger of drowning. Corporal Mora swam to the child, who then pulled the officer underwater. Submerged and unable to breathe, Corporal Mora managed to hold the boy above the water until other people arrived. Corporal Mora's actions saved a child's life and prevented a tragic loss for a fellow officer and the department as a whole.

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Patch Call



The patch of the Jefferson Township, New Jersey, Police Department centers on the naming of the department's jurisdiction. The township was incorporated in 1804, the same year as Thomas Jefferson's recorded inauguration as the third president of the United States. As such, the patch displays a profile bust of Thomas Jefferson, intersecting U.S. and New Jersey flags, and the year 1804.



The central emblem on the patch of the San Francisco, California, Police Department depicts a phoenix, a mythological bird. According to ancient mythology, a phoenix's tears have magical healing powers, and the creature experiences rebirth from its own ashes after death. Like the phoenix, San Francisco rose from the ashes after a devastating fire and earthquake in 1906. In the gold ribbon below the graphic reads the city's motto, which translates to "Gold in Peace, Iron in War."